A

CAHAYA BARU DEVELOPMENT BHD

v.

LEMBAGA LEBUHRAYA MALAYSIA

B

FEDERAL COURT, PUTRAJAYA
ALAUDDIN MOHD SHERIFF PCA
ZULKEFLI MAKINUDIN FCJ
RAUS SHARIF FCJ
[CIVIL APPEAL NO: 01-12-2009 (J)]

C

21 SEPTEMBER 2010

LAND LAW: *Acquisition of land - Objection against compensation - Acquisition under s. 3(1)(a) Land Acquisition Act 1960 by State Authority for a public purpose - Whether defendant a "person interested"*

D

within meaning of s. 37(3) - Whether defendant entitled to object against compensation awarded - Land Acquisition Act 1960, ss. 2, 3(1)(a), (b), (c), 11(1)(d), 14, 37(1), (3), 55(1)(a) - Highway Authority Malaysia (Incorporation) Act 1980, s. 22(1)

E

LAND LAW: *Acquisition of land - Acquisition by State Authority - Objection against compensation by defendant - Whether acquisition of land under s. 3(1)(a) Land Acquisition Act 1960 ruled out defendant's involvement as land acquired by State Authority for a public purpose - Land Acquisition Act 1960, ss. 3(1)(a), (b), (c) - Highway Authority Malaysia (Incorporation) Act 1980, s. 22(1)*

F

LAND LAW: *Acquisition of land - Inquiry by Land Administrator - Objection against award of compensation - Whether Land Administrator exercised his powers in accordance with relevant provisions of Land Acquisition Act 1960 - Land Acquisition Act 1960, ss. 2, 11(1)(d), 14,*

G

37, 55(1)(a)

WORDS & PHRASES: *"person interested" - Land Acquisition Act 1960, ss. 2, 37(1), (3) - Definition of - Whether defendant an "interested person" within meaning of Act*

H

This was an appeal by the appellant/plaintiff against the decision of the Court of Appeal allowing the respondent's/defendant's appeal against the High Court's decision granting the declarations sought by the plaintiff that the defendant had no standing to lodge any

I

objection against an award made by the Land Administrator ('LA') as compensation for the acquisition of a portion of the plaintiff's

land. The plaintiff obtained leave to appeal on the following questions: whether the defendant, a corporate body under the Highway Authority Malaysia (Incorporation) Act 1980 ('HAMA'), was (i) a "person interested" within the meaning of s. 37(3) of the Land Acquisition Act 1960 (as amended) ('Act') and (ii) eligible to object to the compensation awarded to the plaintiff when the portion of the plaintiff's land was acquired under s. 3(1)(a) of the Act by the State Authority for the Ministry of Public Works, Malaysia. It was the defendant's submission that the State Authority had acquired the land for a public purpose under s. 3(1)(a) of the Act. The Form N lodged by the defendant under s. 37(3) of the Act was premised on the basis that it was a person interested in the land. Under the Act, the acquisition of land for a public purpose is only permitted under s. 3(1)(a). In contrast, the plaintiff averred that s. 3(1)(b) of the Act provides for the acquisition of land by any person or corporation, like the defendant, in the circumstances enumerated therein. Therefore, the acquisition of the land under s. 3(1)(a) of the Act ruled out the defendant's involvement as the land was acquired by the State Authority for a public purpose.

Held (dismissing the appeal with costs)
Per Zulkefli Makinudin FCJ delivering the judgment of the court:

(1) The effect of s. 22(1) of the HAMA is that where any private land is needed to be compulsorily acquired for the construction of highways, the said private land may be acquired in accordance with any written law relating to the acquisition of land for a public purpose. The declaration that the private land is so needed shall have effect as if it were a declaration that the private land is needed for a public purpose made in accordance with the said written law. Therefore, under the HAMA the plaintiff's land could only have been compulsorily acquired in accordance with the written law, namely under s. 3(1)(a) of the Act, for a public purpose. The plaintiff's land could not have been acquired in accordance with the Act under s. 3(1)(b) or (c). Notwithstanding that the compensation was paid by the defendant, it remained that the Form D (notice of intended acquisition) was a declaration that the land was needed for a public purpose. (para 9)

(2) The LA had acted and exercised his powers in accordance with the relevant provisions of the Act in the acquisition of the plaintiff's land. By virtue of s. 11(1)(d) of the Act, the decision is entirely the LA's whether to serve a Form E upon any person whom he knows or has reason to believe to be interested in the land. On the facts of the present case, the fact that the Form E was served on the defendant meant that the defendant had an interest to object to the quantum of the award as a person interested in the context of s. 37 of the Act. The defendant's representative had made it known to the LA and the plaintiff that the defendant had objections to the award made by the LA. The service of Form E on the defendant was provided for under s. 55(1)(a) of the Act, and Form G was rightly served on the defendant by the LA by virtue of s. 14 of the Act as the Land Office had acknowledged that the defendant was a "person interested" within the meaning of s. 37 of the Act. Furthermore, s. 2 of the Act defines the term "person interested" to include every person claiming an interest in compensation to be made on account of the acquisition of land under the Act. The defendant, thus, as the "paymaster" should be construed as a "person interested" within the meaning of s. 37(1) read with subs. (3) of the Act. *Menteri Besar Negeri Sembilan (Pemerbadanan) v. Pentadbir Tanah Daerah Seremban & Anor* (dist). (paras 10 & 11)

(3) For the reasons stated above, the questions posed in this appeal should be answered in the affirmative. (para 16)

Bahasa Malaysia *Translation Of Headnotes*

Ini adalah rayuan oleh perayu/plaintif terhadap keputusan Mahkamah Rayuan membenarkan rayuan responden/defendan terhadap keputusan Mahkamah Tinggi membenarkan deklarasi-deklarasi yang dituntut oleh plaintif bahawa defendan tidak mempunyai kuasa untuk membuat apa-apa bantahan terhadap suatu award yang dibuat oleh Pentadbir Tanah ('PT') sebagai pampasan bagi pengambilan sebahagian tanah plaintif. Plaintif mendapat kebenaran untuk merayu atas soalan-soalan berikut: sama ada defendan, suatu perbadanan korporat di bawah Akta Lembaga Lebuhraya Malaysia (Perbadanan) 1980 ('ALLM'), adalah (i) suatu "orang berkepentingan" seperti yang dimaksudkan oleh s. 37(3) Akta Pengambilan Tanah

1960 (seperti dipinda) ('Akta') dan (ii) berhak membantah terhadap pampasan yang diawardkan kepada plaintif apabila sebahagian tanah plaintif diambil di bawah s. 3(1)(a) Akta oleh Pihak Berkuasa Negeri untuk Kementerian Kerja-kerja Awam, Malaysia. Ia merupakan hujahan defendan bahawa Pihak Berkuasa Negeri telah mengambil tanah tersebut untuk tujuan am di bawah s. 3(1)(a) Akta. Borang N yang diserahkan oleh defendan di bawah s. 37(3) Akta dipremiskan atas dasar ia adalah orang yang mempunyai kepentingan dalam tanah tersebut. Di bawah Akta, pengambilan tanah untuk tujuan am hanya dibenarkan di bawah s. 3(1)(a). Sebaliknya, plaintif menghujahkan bahawa s. 3(1)(b) Akta menyediakan untuk pengambilan tanah oleh sesiapa atau mana-mana korporasi, seperti defendan, dalam keadaan-keadaan yang dinyatakan dalamnya. Oleh itu, pengambilan tanah tersebut di bawah s. 3(1)(a) Akta mengesampingkan penglibatan defendan kerana tanah tersebut diambil oleh Pihak Berkuasa Negeri untuk satu tujuan am.

Diputuskan (menolak rayuan dengan kos)
Oleh Zulkefli Makinudin HMP menyampaikan penghakiman mahkamah:

(1) Kesan s. 22(1) ALLM ialah di mana tanah persendirian diperlukan untuk diambil secara paksa bagi pembinaan lebuhraya, tanah persendirian tersebut boleh diambil menurut mana-mana undang-undang bertulis berhubungan dengan pengambilan tanah untuk tujuan am. Deklarasi bahawa tanah persendirian diperlukan sebegitu akan mempunyai kesan seumpama ia adalah suatu deklarasi bahawa tanah persendirian tersebut diperlukan untuk tujuan am yang dibuat menurut undang-undang bertulis tersebut. Oleh yang demikian, di bawah ALLM tanah plaintif hanya boleh diambil secara paksa menurut dengan undang-undang bertulis, iaitu di bawah s. 3(1)(a) Akta, untuk tujuan am. Tanah plaintif tidak boleh diambil menurut Akta di bawah s. 3(1)(b) atau (c). Meskipun pampasan dibayar oleh defendan, ia masih kekal bahawa Borang D (notis niat pengambilan) adalah suatu deklarasi bahawa tanah tersebut diperlukan untuk tujuan am.

(2) PT telah bertindak dan melaksanakan kuasanya menurut peruntukan-peruntukan relevan Akta apabila mengambil tanah plaintif. Mengikut s. 11(1)(d) Akta, ia merupakan keputusan PT secara keseluruhan sama ada untuk menyampaikan suatu

Borang E atas sesiapa yang beliau tahu atau mempunyai sebab untuk mempercayai mempunyai kepentingan dalam tanah. Berdasarkan fakta-fakta kes semasa, kenyataan bahawa Borang E telah disampaikan atas defendan bermakna bahawa defendan mempunyai kepentingan untuk membantah terhadap kuantum award tersebut sebagai seorang berkepentingan dalam konteks s. 37 Akta. Wakil defendan telah memberitahu PT dan plaintif bahawa defendan mempunyai bantahan terhadap award yang dibuat oleh PT. Penyampaian Borang E atas defendan disediakan di bawah s. 55(1)(a) Akta, dan Borang G telah disampaikan atas defendan oleh PT menurut s. 14 Akta kerana Pejabat Tanah telah mengakui bahawa defendan ialah "orang berkepentingan" seperti yang dimaksudkan oleh s. 37 Akta. Lagipun, s. 2 Akta mendefinasikan terma "orang berkepentingan" untuk merangkumi sesiapa yang mendakwa mempunyai kepentingan dalam pampasan untuk dibuat disebabkan pengambilan tanah di bawah Akta. Defendan, oleh itu, sebagai "jurubayar gaji" sepatutnya ditafsirkan sebagai "orang berkepentingan" seperti yang dimaksudkan oleh s. 37(1) dibaca bersama-sama dengan subs. (3) Akta. *Menteri Besar Negeri Sembilan (Pemerbadanan) v. Pentadbir Tanah Daerah Seremban & Anor* (dibezakan).

(3) Untuk sebab-sebab yang dinyatakan di atas, soalan-soalan yang dikemukakan dalam rayuan ini seharusnya dijawab secara afirmatif.

Case(s) referred to:

Himalaya Tiles and Marble (P) Ltd v. Francis Victor Coutinho by LR's AIR [1980] 1118 ***(refd)***

Menteri Besar Negeri Sembilan (Pemerbadanan) v. Pentadbir Tanah Daerah Seremban & Anor [1995] 4 CLJ 477 CA ***(dist)***

Magasu Sundram T Magasu & Ors v. Pentadbir Tanah Wilayah Persekutuan Kuala Lumpur [2003] 2 CLJ 422 HC ***(refd)***

Sunderlal (in both the appeals) v. Paramsukhdas and others (in both the appeals) AIR [1968] 366 SC ***(refd)***

Legislation referred to:

Highway Authority Malaysia (Incorporation) Act 1980, ss. 11(1)(a), 22(1)
Land Acquisition Act 1960, ss. 2, 3(1)(a), (b), (c), 8, 11(1)(d), 12, 14(2), 37(1), (3), 38(5), 55(1)(a)

For the appellant - Dato' RR Sethu (JD Goonting with him); M/s Abdul Hakim Abdul Rahman & Co
For the respondent - Ramesh Sanghvi; M/s Kassim Tadin, Wai & Co
Watching brief for Government of Malaysia - Siti Badariah Mohd Yusof SFC

[Appeal from Court of Appeal, Kuala Lumpur; Civil Appeal No: J-01-144-2008]

[Editor's note: For the Court of Appeal judgment, please see Lembaga Lebuhraya Malaysia v. Cahaya Baru Development Bhd [2010] 4 CLJ 419.]

Reported by Suresh Nathan

JUDGMENT

Zulkefli Makinudin FCJ:

Introduction

[1] This is an appeal by the appellant against the decision of the Court of Appeal which allowed the respondent's appeal against the decision of the High Court at Johor Bahru. Before the High Court, the appellant was the plaintiff and the respondent was the defendant. We shall refer the parties as they were before the High Court.

Background Facts

[2] The relevant background facts leading to the present appeal by the plaintiff may be summarized as follows:

(a) The plaintiff was the registered owner of the land held under PTD 171003 H.S.(M) 2996 Mukim Plentong, Daerah Johor Bahru, Negeri Johor ("the said land").

(b) The defendant is a corporate body incorporated under the Highway Authority Malaysia (Incorporation) Act 1980 ("HAMA 1980") and has a statutory obligation under s. 11 of HAMA 1980 to supervise and execute the design, construction and maintenance of Highways as determined by the Government of Malaysia.

(c) On 18 November 2004, the Johor State Authority caused to be published in the Gazette under s. 8 of the Land Acquisition Act 1960 ("the Act") a notice of intended acquisition (Form D under the Act) of a portion of the said land declaring that the said land was required for a public purpose.

(d) The public purpose of the intended acquisition in Form D was expressed to be for the construction of Senai-Pasir Gudang-Desaru Expressway ("the Expressway Project") and it was stated *inter alia* in Form D that it was made under s. 3(1)(a) of the Act and acquired for the Ministry of Public Works, Malaysia.

(e) The Land Administrator Johor Bahru ("LA") served a notice in Form E under the Act on the plaintiff and the defendant giving notice for the enquiry proceedings to determine the compensation to be awarded.

(f) An enquiry under s. 12 of the Act was held by the LA in respect of the acquisition. Upon the conclusion of the enquiry the LA awarded a sum of RM30,734,903 ("the award") to the plaintiff as compensation for the acquisition of 19.825 hectares of the said land.

(g) The LA served on the plaintiff and the defendant a Form G dated 20 April 2006 under s. 14 of the Act on the compensation awarded to the plaintiff.

(h) The award was accepted by the plaintiff, but the amount of compensation under the award was objected to by the defendant.

(i) On 25 May 2006, the defendant filed an application that an objection in relation to the award be referred to the court in the requisite Form N under the Act. The said Form N stated that the defendant was a person interested pursuant to s. 37(3) of the Act.

(j) The LA thereafter referred the defendant's objection in Form N to the Johor Bahru High Court by way of Form O under s. 38(5) of the Act.

(k) On 7 February 2007, the plaintiff applied by way of originating summons to the High Court for declarations, *inter alia* that the defendant had no locus and was not an "interested person" under s. 37(3) read with s. 3 of the Act and thus not entitled to lodge an objection in Form N with the LA against the award.

(l) The reference made by the LA pursuant to s. 38(5) of the Act has been registered under Johor Bahru High Court Land Reference Proceedings No. 15-40-2007 and it has been stayed pending the disposal of the plaintiff's present appeal before this court.

(m) The learned Judicial Commissioner of the High Court granted the declarations sought by the plaintiff that the defendant had no standing to lodge any objection against the award made by the LA.

(n) The defendant appealed to the Court of Appeal against the decision of the learned Judicial Commissioner of the High Court in granting the declarations sought by the plaintiff. The Court of Appeal allowed the defendant's appeal and set aside all the Orders made by the High Court.

(o) The plaintiff obtained leave of the Federal Court to appeal against the decision of the Court of Appeal on the following question:

Whether the respondent (defendant) is

(i) a "person interested" within the meaning of s. 37(3) of the Land Acquisition Act 1960 (as amended) ("the Act"); and

(ii) eligible to object to the compensation awarded to the appellant (plaintiff) when the portion of the appellant's land was acquired under s. 3(1)(a) of the Act by the State Authority for the Ministry of Public Works, Malaysia.

Decision

[3] Learned counsel for the defendant submitted before us that in this case the said land was acquired by the State Authority for a public purpose under s. 3(1)(a) of the Act. The Form N lodged by the defendant under s. 37(3) of the Act is premised on the basis that the defendant is a person interested in the land. Under the Act the acquisition of land for public purpose is only permitted under s. 3(1)(a). In contrast learned counsel for the plaintiff submitted that s. 3(1)(b) of the Act provides for the acquisition of land by any person or corporation like the defendant in this case in the circumstances enumerated therein. Therefore the acquisition of the said land under s. 3(1)(a) of the Act rules out the involvement

of the defendant as the land is acquired by the State Authority for a public purpose. The case of *Menteri Besar Negeri Sembilan (Pemerbadanan) v. Pentadbir Tanah Daerah Seremban & Anor.* [1995] 4 CLJ 477 was cited for the plaintiff as the authority for such a proposition. This contention of the plaintiff found favour with the learned Judicial Commissioner of the High Court who ruled that the defendant is not a person interested in the said land. However, the Court of Appeal on appeal reversed the decision of the High Court and ruled that the defendant is in fact a person interested in the said land under s. 37 of the Act and entitled to take objection against the amount of compensation awarded by the LA to the plaintiff.

[4] The principal issue to be determined in this appeal is whether the defendant is a person interested within the meaning of s. (37)(3) of the Act. Section 37 of the Act provides as follows:

> 37 Application to Court
>
> (1) Any person interested in any scheduled land who, pursuant to any notice under section 10 or 11, has made a claim to the Land Administrator in due time and who has not accepted the Land Administrator's award thereon, or has accepted payment of the amount of such award under protest as to the sufficiency thereof, may, subject to this section, make objection to:
>
> (a) the measurement of the land;
>
> (b) the amount of the compensation;
>
> (c) the persons to whom it is payable;
>
> (d) the apportionment of the compensation.
>
> (2) Where the total amount awarded in compensation in respect of any interest in any scheduled land does not exceed three thousand ringgit the written award of the Land Administrator shall be final with regard to both the measurement of the land and the amount of compensation awarded, and no objection may be made under subsection (1) in respect thereof.
>
> (3) Where the total amount of any award in respect of any scheduled land exceeds fifteen thousand ringgit any Government or any person or corporation undertaking a work which in the opinion of the State Authority is of public utility,

and on whose behalf such land was acquired pursuant to section 3, shall be deemed to be a person interested in any schedule land under subsection (1), and may make objections on any of the grounds specified in subsection (1).

[5] It is also necessary to reproduce herein the provision of s. 3(1) of the Act under which the acquisition of the land was made as follows:

3 Acquisition of land

(1) The State Authority may acquire any land which is needed -

(a) for any public purpose;

(b) by any person or corporation for any purpose which in the opinion of the State Authority is beneficial to the economic development of Malaysia or any part thereof or to the public generally or any class of the public; or

(c) for the purpose of mining or for residential, agricultural, commercial or industrial or recreational purposes or any combination of such purposes.

[6] We are of the view in determining whether the defendant is a "person interested" within the meaning of s. 37 of the Act one has to also take into account the background facts leading to the issuance of the declaration that the said land was required for public purpose under s. 8 of the Act. It is to be noted from the evidence adduced in this case that when the defendant sent a letter dated 24 August 2004 to the Ministry of Public Works for the acquisition of the said land it had made reference to the Circular, namely the Pekeliling Ketua Pengarah Tanah dan Galian ("KPTG") Bilangan 3/1979 which requires a body like the defendant to submit an application for any land that was needed to be acquired for a highway project to be made direct through the Ministry of Public Works. This was then followed by the letter dated 2 September 2004 from the Ministry of Public Works to the KPTG wherein the former required the latter to take relevant steps to acquire the lands from the Johor State Authority. It was based on these background facts that the Johor Bahru Land Office issued the declaration under s. 8 of the Act declaring that the said land was to be acquired pursuant to s. 3(1)(a) of the Act for the construction of the Expressway Project for the Ministry of Public Works.

[7] We are also of the view that the Court of Appeal in its judgment had rightly stated that the nexus between the defendant and the Ministry of Public Works and the fact that the defendant is a statutory agency of the Ministry of Public Works by way of a government gazette dated 24 February 2004 *vide* PUA 206 are relevant considerations which were entirely overlooked by the learned Judicial Commissioner of the High Court in arriving at his decision. It must be borne in mind that by virtue of s. 11(1)(a) of HAMA 1980, the defendant has a duty to supervise and execute the design, construction and maintenance of highways as determined by the Government of Malaysia.

[8] As regards the general powers of the defendant to acquire land, useful reference may be made to s. 22 of HAMA 1980 which provides as follows:

> 22. General powers to acquire land
>
> (1) Where any immovable property, not being State land or reserved land, is needed to be acquired for the purpose of this Act and cannot be acquired by agreement, such property may be acquired in accordance with the provisions of any written law relating to the acquisition of land for a public purpose for the time being in force in the State in which the property is situated and any declaration required under any such written law that the land is so needed may be made notwithstanding the compensation is to be paid out of the funds of the Authority, and the said declaration shall have effect as if it were a declaration that the land is needed for a public purpose made in accordance with the said written law.
>
> (2) Expenses and compensation in respect of any immovable property acquired under this section shall be paid by the Authority.
>
> (3) Where any immovable property has been acquired under this section, the Authority shall take out the necessary document of title in respect of the property and shall pay any rent to which the property is subject.

[9] The effect of the above s. 22(1) of HAMA 1980 in our view is that where any private land is needed to be compulsorily acquired for the construction of highways, then the private land may be acquired in accordance with any written law relating to the acquisition of land for a public purpose. The declaration that the

private land is so needed shall have effect as if it were a declaration that the private land is needed for a public purpose made in accordance with the said written law. Under HAMA 1980, therefore the said land of the plaintiff could only have been compulsorily acquired in accordance with the written law, namely under s. 3(1)(a) of the Act, for a public purpose. The said land of the plaintiff could not have been acquired in accordance with the Act under ss. 3(1)(b) or (c). Notwithstanding that the compensation was paid by the defendant, it remained that the said Form D was a declaration that the said land was needed for a public purpose.

[10] It is our judgment that the LA had acted and exercised his powers in accordance with the relevant provisions of the Act in the acquisition of the said land. We agree with the finding of the Court of Appeal that the learned Judicial Commissioner had failed to consider that by virtue of s. 11(1)(d) of the Act the decision fell entirely with the LA whether to serve Form E to any person whom he knows or has reason to believe to be interested in the said land. In the present case the fact that Form E was served on the defendant meant that the defendant had an interest to object to the quantum of the award as a person interested in the context of s. 37 of the Act. The defendant's representative had made it known to the LA and the plaintiff that the defendant had objections to the award made by the LA. The service of Form E on the defendant was provided for under s. 55(1)(a) of the Act. The Form G was rightly served on the defendant by the LA by virtue of s. 14 of the Act as the Land Office had acknowledged that the defendant is a "person interested" within the meaning of s. 37 of the Act.

[11] We would like also to refer to s. 2 of the Act which defines the term "person interested" to include every person claiming an interest in compensation to be made on account of the acquisition of land under this Act. On this point we agree with the view taken by the Court of Appeal that the defendant as the "paymaster" should be construed as a "person interested" within the meaning of s. 37(1) read with s. 37(3) of the Act.

[12] As regards the case of *Menteri Besar Negeri Sembilan (Pemerbadanan) v. Pentadbir Tanah Daerah Seremban & Anor. (supra)* relied on by the plaintiff, we find on the facts that case can be distinguished from the present case. As rightly found by the Court of Appeal, there, the *Menteri Besar Negeri Seremban (Pemerbadanan)*

A is a statutory body with powers to undertake ventures of a commercial or industrial nature independently or jointly with another company. Here, the defendant is a statutory agency of the Ministry of Public Works and has a statutory duty to supervise and execute the design, construction and maintenance of Highways as
B determined by the Government as provided for in s. 11(1)(a) of the HAMA 1980. That case did not show nor indicate whether the LA had served Form E and Form G on the defendant and whether the defendant there had attended the enquiry. Neither did the case there show as to who was the "paymaster" for the award. In that case
C too, the Form D notice for the proposed acquisition had indicated that the purpose was for a public purpose, that is the creation of the Nilai New Town. This therefore ruled out the involvement of any other person on whose behalf the land was acquired by the State Authority. Moreover, all these issues were decided by the Land
D Reference Court and not by way of an originating summons like the present appeal at hand wherein the plaintiff sought for the declaratory reliefs against the defendant before the learned Judicial Commissioner of the High Court.

E **[13]** We would like to state here we agree with the Court of Appeal that a liberal approach must be adopted in construing the term "person interested". In the case of *Magasu Sundram T Magasu & Ors. v. Pentadbir Tanah Wilayah Persekutuan Kuala Lumpur* [2003] 2 CLJ 422, the High Court was confronted with an application by
F the intended intervener who was appointed to procure a higher award of compensation on behalf of the first claimant and having been promised a 10% share of any additional compensation he could obtain, sought to intervene in the proceedings between the claimants and the land administrator. In deciding whether the
G intended intervener fell within the scope of the term "person interested" in ss. 2 and 14(2) of the Act, Azmel Ma'amor J (later FCJ) said at p. 423 of the report:

> The term 'person interested' is inconclusive and a person can be said to be a person interested if he has interest in the land either directly
H or indirectly or if he has an interest in the compensation in respect of the land acquired.

[14] The Indian Supreme Court in the case of *Himalaya Tiles and Marble (P) Ltd. v. Francis Victor Coutinho by LR's* AIR [1980] 1118
I SC at p. 1121, had this to say in regard to the term "person interested" under the Indian Land Acquisition Act (1894):

> 13. Thus, the preponderance of judicial opinion seems to favour the view that the definition of 'person interested' must be liberally construed so as to include a body, local authority, or a company for whose benefit the land is acquired and who is bound under an agreement to pay the compensation. In our opinion, this view accords with the principles of equity, justice and good conscience. How can it be said that a person for whose benefit the land is acquired and who is to pay the compensation is not a person interested even though its stake may be extremely vital?

[15] Again, the Indian Supreme Court in the case of *Sunderlal (in both the appeals) v. Paramsukhdas and others (in both the appeals)* AIR [1968] 366 SC at p. 369 had this to say:

> It will be noticed that it is an inclusive definition. It is not necessary that in order to fall within the definition a person should claim an interest in land, which has been acquired. A person becomes a person interested if he claims an interest in compensation to be awarded. It seems to us that Paramsukhdas is a 'person interested' within section 3(b) of the Act because he claims an interest in compensation.

Continuing at p. 370, the Indian Supreme Court said in the same case:

> It would be strange to come to the conclusion that the Legislature is keen that a person claiming an interest in compensation should be heard before the land is acquired but is not interested in him after the land is acquired.

Conclusion

[16] For the reasons above stated we would answer the questions posed in this appeal in the affirmative. The appeal by the plaintiff is therefore dismissed with costs. The deposit paid by the plaintiff is to be paid to the defendant towards costs.